

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Application No. 147 of (SZ) (THC)

IN THE MATTER OF:

Chinnapaiyan
S/o.Sriranga Gounder,
Kuppadasanvalawu,
Avaniperur East Village,
Bodinaickenpatti Post,
Edappadi Taluk, Salem District

... Applicant

AND

1. Member Secretary,
Tamil Nadu State Pollution Control
Board, Chennai.
2. Member Secretary,
State Level Environment Impact
Assessment Authority,
III Floor, Panagal Maaligai,
Chennai 6000 015.
3. District Collector,
Salem District, Salem.
4. Assistant Director,
Department of Geology and Mining,
Salem.
5. Executive Engineer,
Public Works Department,
Salem District.
6. Superintendent of Police,
Salem, Salem District.
7. Deputy Superintendent of Police,
Sankagiri, Salem District.

8. Inspector of Police,
Edappadi Police Station,
Salem District.
9. District Revenue Officer,
Salem Collectorate,
Salem District, Salem.
10. Revenue Divisional Officer,
Sankagiri,
Salem District.
11. Tahsildar,
Idappadi Taluk Office,
Taluk Office Complex,
Salem District.
12. Mrs.Kalaivani Ramakrishnan,
Panchayat Board Prpesident,
Bodinaickkenpatti Panchayat,
Edappadi Taluk,
Salem District.
13. T.Gnanasekaran,
S/o. Thirumeninathan
No.91, 1st floor,
Cutchery Road,
Karambakkudi Taluk,
Pudukottai District - 622 302.

...Respondents

Counsel appearing for the Applicant:

**M/s. D.Shivakumarn,
S.P.Vijayaragavan and
S.Maylnathan**

Counsel appearing for the Respondents:

**Mrs.H.Yasmeen Ali for R1
Mrs.C.SAngamithirai for R2
M/s. M.K.Subramanian and
P.Velmani for R3, R4, R6 to R11.
M/S.Abdul Saleem, S.Saravanan,
And Mrs.Vidyalakshmi Vipin for R5
Mrs.Kalaivani Ramakrishnan,
BodinayakanPati Panchayat
Board President for R12
M/s. S.Elam Bharathy for R.13**

ORDER

PRESENT:

HON'BLE SHRI JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER

HON'BLE SHRI P.S. RAO, EXPERT MEMBER

Delivered by Hon'ble Justice Dr.P.JyothiMani, Judicial Member

Dated 26th August, 2016

Whether the Judgement is allowed to be published on the Internet – Yes/No

Whether the Judgement is to be published in the All India NGT Reporter – Yes/No

This application is preferred by the applicant, who is stated to be a farmer, residing at Kuppadasanvalawu Village, Avaniperur East Village, Bodinaickenpatti (Post), Edappadi Taluk, Salem District praying to restrain the 13th respondent, T.Gnanasekaran, or his representatives or agents from dredging, quarrying, mining and transporting of minerals in any manner from Veppampatti Lake near Sarabanga River without obtaining prior Environmental Clearance and also for a direction against the 13th respondent to set right the Environmental and ecological damages said to have been caused by quarrying beyond the scope of mining permit granted for gravel in Veppampatti Lake near Sarabanga River and also for a direction against the official respondents 1 to 11 to issue necessary permission to start quarry and mining operations only after strict compliance of all the mandatory requirements of law and also after hearing the grievances of the local residents, including the applicant.

2. According to the applicant, there has been illegal quarrying and dredging from Vepampatti Lake near Sarabanga River causing ecological imbalance, in respect of which, there was public protest in the year 2012. In spite of the same, there had been large quantity of sand smuggling and the Government authorities failed to stop such activities. There was an enquiry conducted and illegally mined sand were seized in the village. However, in the beginning of August 2015, the 13th Respondent has commenced dredging, quarrying and transporting of sand, red soil and clay without necessary permission. According to the applicant, the 13th respondent started activities by around 8.a.m and continued upto 6.30 p.m and everyday more than 300 loads of sand and clay were removed through Tipper lorries and more than 150 loads through local tractors.

3. The 4th respondent, namely, Assistant Director, Department of Geology and Mining has given permission to the 13th respondent under Tamil Nadu Minor and Mineral Concession Rules, 1959, as per the orders of the District Collector, the 3rd Respondent, dated 16.07.2015 for a period of 11 months commencing from 16.07.2015 to 15.06.2016 to quarry soil / mine gravel sand from Avaniperur, Kizhmugham villages, Veppampatti lake bearing S.No/Block No.119 (P) for 7083 lorry loads by giving proper Load Trip Sheets. It is stated that the dredging and mining takes place in the middle of the water bed, digging deeply along the bunds/sluices allotted for irrigation purposes and the 13th respondent has quarried beyond the limit permitted and created his own road for quarrying and has also felled trees. Such activities have resulted in environmental degradation such as bank erosion, reduction of water level in the lake, removal of bottom sediments, exposure of sub surface water resulting in increased evaporation of water, depletion

of ground water, inducement of changes in the sediment supply and channel form etc. The sand is a minor mineral. As per EIA Notification 2006, all mining activities require prior Environmental Clearance (EC). Since 13th respondent has quarried without EC and contrary to the permission given to him under the Tamil Nadu Minor Mineral Concession Rules, 1959, adversely affecting the environment, the applicant has filed the above said application for the prayer stated above.

4. The application came to be filed before this Tribunal on 03.09.2015. While admitting the application, this Tribunal by an order dated 04.09.2015 has granted an order of interim injunction against the 13th respondent. Further, this Tribunal by order dated 10.02.2016, has directed the 1st respondent, Member Secretary, Tamil Nadu State Pollution Control Board (Board) to depute a responsible officer of the Board to inspect the spot concerned, after giving notice to the applicant as well as the respondents and find out the quantum of mineral extracted by the 13th respondent and also to find out as to whether the terms and conditions of the EC and Consent have been breached by the 13th respondent and file a status report.

5. Accordingly, on 11.03.2016, the Board has filed a status report in respect of which, objections have been filed by the parties. As per the direction of the Tribunal, an inspection was conducted by the District Environmental Engineer, TNPCB, Salem, along with the officials of P.W.D, Salem on 25.02.2016 between 15.00 hours and 18.00 hours. In the report filed by the Board through its District Environmental Engineer, Salem, it is stated that the 13th respondent has applied for removal of 42500 M³ of gravel/earth in an extent of 4.25 hectare from Veppampatti tank in S.F.No.119 (Part) of Avenipperur Village, Edapadi Taluk, Salem District for a

period of 11 months under Rule 12 of the Tamil Nadu Minor Mineral Concession Rules, 1959. The 13th respondent has obtained Mining plan approval from the Assistant Director, Geology and Mining, Salem District under an order dated 12.01.2015. It is also stated that SEIAA has granted EC on 01.04.2015 subject to various conditions. In respect of the conditions stipulated in the EC, the report states that there was no Protected Area within 10 kms radius of the quarry site. EC granted was valid from 01.04.2015 to 29.02.2016. There is no natural drainage pattern inside the tank, no drilling and blasting was carried out. No permanent civil structures are located within 15 metres from the periphery of the quarry lease area and no quarrying activity was found during the time of inspection. It was based on the said EC, the Board has issued "Consent to Operate" both under Water (Prevention & Control of Pollution) Act 1974 (Water Act) and Air (Prevention & Control of Pollution) Act 1981 (Air Act) on 23.06.2015, subject to various conditions and the status of compliance have been explained, which include that there was no trade effluent generation, no blasting, no complaints from anyone and no quarrying activity has taken place at the time of inspection. That apart, the District Collector, Salem has granted permission for removal of 42500 M³ (7083 lorry loads) for a period of 11 months in his proceedings dated 16.07.2015.

6. Further, it is stated that the quarry lease of 4.25 hectares was allotted in two pits with measurements, namely, Pit 1 - length 225 metres, breadth 100 metres, depth 1.0 metre and Pit 2 - length 200 metres, breadth 100 metres, depth 1.0 metre. During inspection Pit No.1 was measured by the Public Works Department and it was found that the 13th respondent has quarried 7793.50 M³ as

against the permission granted, namely, 42500 M³ from 06.08.2015 to 10.09.2015 and depth of quarrying varies from 0.50 m to 1.50 m. It was also found that the 13th respondent has not quarried anything in Pit No.2. It is also stated that the quarrying area in Pit No.1 is far away from the tank bund, sluice, surplus weir and other irrigation structures. i.e. 150 metres from them. The desilting and strengthening of the tank bund was carried out by Public Works Department during 2003 and again during 2007-2008 and 2013-14 and the desilted quantity of earth was 18000 M³ and 10600 M³ respectively. It is also stated that the Deputy Director of Geology and Mining, Salem by his proceedings dated 25.02.2016 has issued dispatch slips to the 13th respondent for transportation of earth/gravel from the quarry for the volume of 7200 M³ (1200 lorry loads) from 06.08.2015 to 10.09.2015 and no permission was granted after 10.09.2015.

7. It is further stated that during inspection it was found that the depth of quarrying carried out by the 13th respondent varied from 0.5 meter to 1.5 meter and earth quarried was 7793.50 M³ and EC was granted to quarry upto 1 meter and production was 42500 M³ of gravel for a period of 11 months. The quarrying carried out by the 13th respondent was upto a depth of 0.5 meter to 1.5 meter.

8. In the reply affidavit filed by the 13th respondent, he has stated that he has obtained EC from SEIAA on 01.04.2015 and thereafter Consent from the Board under both Water Act 1974 and Air Act 1981 on 23.06.2015 and according to the 13th respondent, he has quarried gravel only to the extent permitted under the EC as well as the Consent granted by the Board.

9. The 5th respondent, Public Works Department, in its reply has stated that the 13th respondent holds all necessary Permissions and Clearance and he was also granted Permission by the District Collector on 16.07.2015 and the 5th respondent has been directly monitoring the activities of the 13th respondent, who is stated to have complied with all statutory requirements.

10. The 1st respondent, Board has also filed its reply, which is in consonance with the status report filed by it as per the directions stated and enumerated above.

11. The Deputy Director of Department of Geology and Mining, Salem representing the 4th respondent, has filed his inspection report dated 15.09.2016 as per the direction of this Tribunal to find out as to whether the 13th respondent has carried out the conditions of the EC by back filling in S.F.No.119 (part) of Avaniperur Village, Edappadi Taluk, Salem District with a lease to the extent of 4.25.0 hectares and if such back filling has been done, what is the quality of material which is filled and the nature of material used for the purpose of back filling. The Deputy Director has stated that he has inspected the area on 15.07.2016 along with the 4th respondent, Assistant Director, Geology Department and the Special Tahsildar (Mines) and he found that backfilling has been done properly by the top layer of withered clay, which was inferred by mud cracks noted in the subject area and the clay had been used for the purpose of back filling. That apart, it is stated that there is no permanent structure within a radial distance of 50 meters from the lease area. It is further stated that quarrying of gravel in the tank will

augment more storage capacity and it will increase the ground water level of the surrounding area i.e. Recharge capacity of the adjoining wells.

12. Even though the learned counsel appearing for the applicant submits inspite of the reports, the 13th respondent has effected quarrying which has been granted for 11 months, in a shorter period, taking into consideration that there has been effective back filling made by the 13th respondent in respect of soil /gravel quarry and the said back filling is by the use of clay and also taking note of the fact that the quarrying by the 13th respondent will only augment more storage capacity, we are of the view that there is absolutely no environmental issue that arises for consideration on the facts and circumstances of the present case.

13. Further, it is relevant to note that the applicant has come forward with a plea that the 13th respondent has been carrying on the activities without EC and without Consent from the Board. But the fact remains, as we have referred to the EC granted by SEIAA dated 01.04.2015 and also the Consent granted by the Board on 23.06.23015, the basis or foundation of the case of the applicant fails and the applicant appears to have approached this Tribunal without even taking care of finding out as to whether the 13th respondent has got relevant EC, Consent from the Board and other Permissions from the Mining Department, which can be easily obtained by way of information under Right to Information Act. Without taking such prudent steps, the applicant has chosen to make allegations against the 13th respondent, which, in our view, certainly not proper and that, by the conduct of the 13th respondent, there is no environmental hazard that has taken place as seen from the records placed before us.

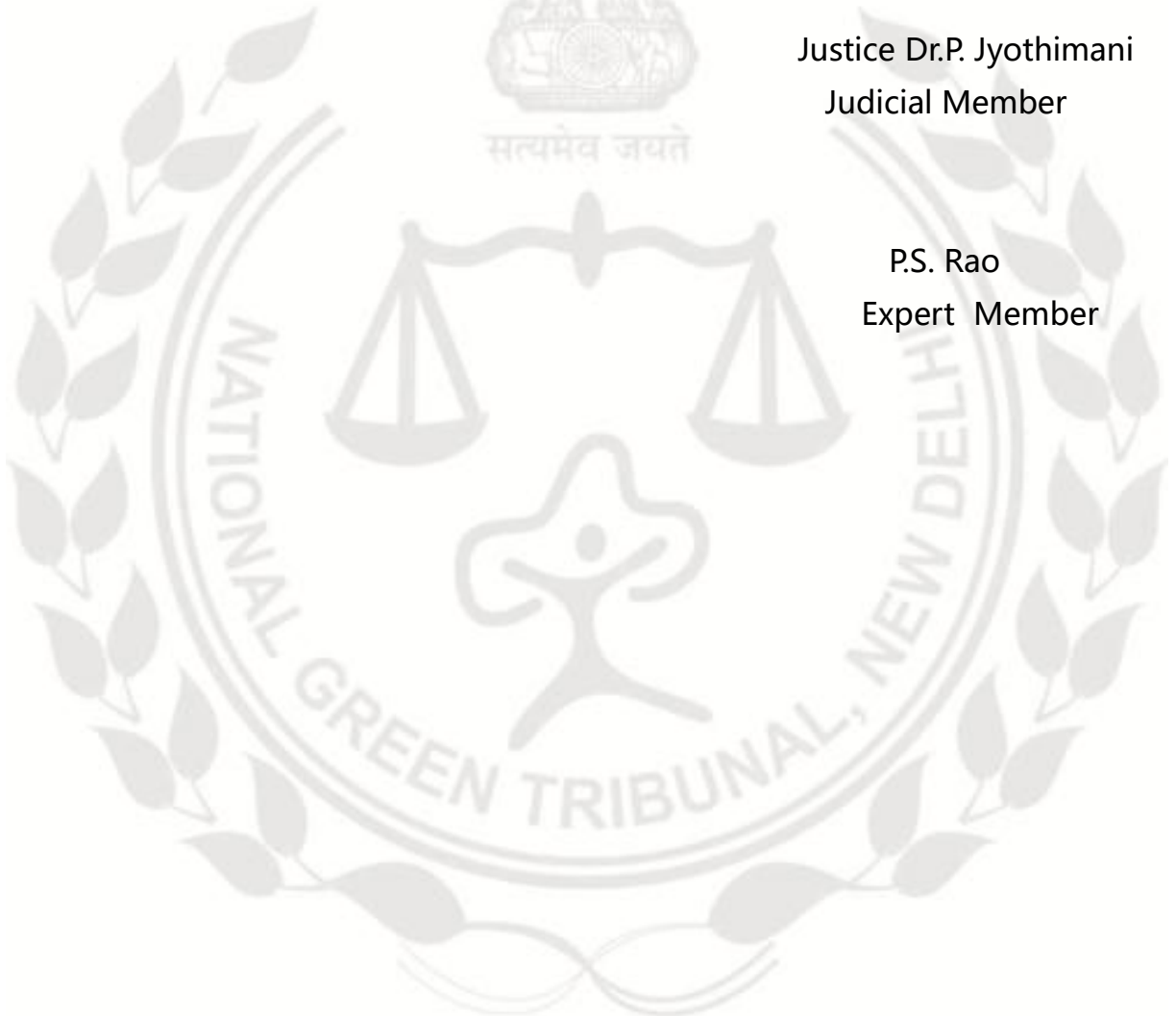
14. In view of all the above, the application fails and the same is dismissed.
However, there shall be no order as to costs.



सत्यमेव जयते

Justice Dr.P. Jyothimani
Judicial Member

P.S. Rao
Expert Member



NGT